

REMARKS

This Application has been reviewed in light of the Office Action electronically sent April 1, 2008. Claims 1-7, 9-23, 25-37 and 39-45 are pending and Claims 1-7, 9-23, 25-37 and 39-44 are allowed. For at least the reasons provided below, Applicants respectfully request reconsideration and allowance of Claim 45.

Allowable Subject Matter

Applicants note with appreciation the Examiner's indication that Claims 1-7, 9-23, 25-37, and 39-44 are allowed.

Section 101 Rejections

The Examiner rejects Claim 45 under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.

However, Applicants respectfully submit that the Federal Circuit (and the U.S. district courts following its precedent) have established a long line of cases establishing the viability of software means-plus-function claims. For example, the Federal Circuit considered software means-plus-function limitations extensively in its *WMS Gaming* case. *WMS Gaming, Inc. v. International Game Technology*, 184 F.3d 1339 (Fed. Cir. 1999). Many similar cases have followed. Thus, there is a long-established precedent of cases analyzing such claims and interpreting them as described in *WMS Gaming* and its progeny (without any doubt as to whether such claims are statutory). This precedent began with *In re Alappat*, which the PTO has long-recognized as allowing the patenting of software in means-plus-function format. As noted in *In re Alappat*, "a general purpose computer in effect becomes a special purpose computer once it is programmed to perform particular functions pursuant to instructions from program software." 33 F.3d 1526 (Fed. Cir. 1994). As has been recognized by the PTO, software means-plus-function claims have a corresponding structure of a general purpose computer programmed to perform particular algorithms disclosed in the specification. For these reasons, Applicants respectfully submit that Claim 45 is statutory. Thus, reconsideration and favorable action is respectfully requested.

CONCLUSION

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request full allowance of all pending claims.

If the Examiner feels that a telephone conference would advance prosecution of this Application in any manner, the Examiner is invited to contact Brian W. Oaks, Attorney for Applicants, at the Examiner's convenience at (214) 953-6986.

No fee is believed to be due. However, the Commissioner is hereby authorized to charge any additional fees or credit any overpayment to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

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Date: June 23, 2008

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